

AMENDED IN ASSEMBLY MAY 31, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1136**

---

---

**Introduced by Assembly Member Swanson**

February 18, 2011

---

---

An act to add Section 6403.5 to the Labor Code, relating to employment safety.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Swanson. Employment safety: health facilities. Existing law regulates the operation of health facilities.

Existing law, the California Occupational Safety and Health Act of 1973, establishes certain safety and other responsibilities of employers and employees, including the requirement that employers provide safety devices and safeguards reasonably necessary to render the employment safe.

This bill would make findings and declarations concerning the lifting, repositioning, and transfer of patients in acute care hospitals and resulting injuries to hospital personnel.

This bill would require an employer to ~~develop and~~ maintain a safe patient handling policy, as defined, for patient care units, ~~to develop a patient protection and health care worker back and musculoskeletal injury prevention plan;~~ and to provide trained lift teams, as defined, or staff trained in safe lifting techniques in each general acute care hospital. The safe patient handling policy would require the replacement of manual lifting and transferring of patients with powered patient transfer

devices, lifting devices, or lift teams, as specified. ~~By January 1, 2013, each hospital would, as~~ As part of the injury and illness prevention program that it is ~~programs~~ required by existing regulations to establish, implement, and maintain,, ~~employers would~~ be required to develop a written safe patient handling policy and purchase enough safe handling equipment to eliminate the need to conduct manual patient handling and transfers ~~adopt a patient protection and health care worker back and musculoskeletal injury prevention plan, which shall include a safe patient handling policy component, as specified, to protect patients and health care workers in health care facilities.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known and cited as the Hospital
- 2 Patient and Health Care Worker Injury Protection Act.
- 3 SEC. 2. The Legislature finds and declares the following:
- 4 (a) In 2008, there were 36,130 occupational musculoskeletal
- 5 disorder (MSD) cases in private industry where the source of injury
- 6 or illness was a health care patient or resident of a health care
- 7 facility. This accounted for 11 percent of the 317,440 total cases
- 8 of MSDs that resulted in a least one lost day from work in 2008.
- 9 Almost all (98 percent) of the cases involving patient handling
- 10 occurred within the health care and social assistance industry,
- 11 composing 55 percent of the 64,300 total MSD cases in that
- 12 industry.
- 13 (b) For MSD cases involving patient handling, almost all (99
- 14 percent) were the result of overexertion. A sprain, strain, or tear
- 15 was the type of injury that was incurred in 84 percent of the MSD
- 16 cases involving patient handling.
- 17 (c) Nursing aides, orderlies and attendants incurred occupational
- 18 injuries or illnesses in 52 percent of the MSD cases involving
- 19 health care patients. Registered nurses accounted for 16 percent
- 20 and home health aides for another 6 percent. Other occupations
- 21 with MSD cases involving health care patients included licensed
- 22 practical and licensed vocational nurses; emergency medical
- 23 technicians and paramedics; personal and home care aides; health
- 24 care support workers; radiologic technologists and technicians;
- 25 and medical and health services managers.

(d) Over 12 percent of the nursing workforce leaves the bedside due to back injuries each year. California's nursing workforce is aging at the same time patient acuity and obesity is rising. It is imperative that we protect our registered nurses and other health care workers from injury, and provide patients with safe and appropriate care. At a cost of between sixty thousand dollars (\$60,000) and one-hundred forty thousand dollars (\$140,000) to train and orient each new nurse, preventing turnover from injuries will save hospitals money.

SEC. 3. Section 6403.5 is added to the Labor Code, to read:

6403.5. (a) An employer shall maintain a safe patient handling policy at all times for all patient care units ~~once the policy is developed pursuant to paragraph (1) of subdivision (f)~~, and shall provide trained lift teams or other support staff trained in safe lifting techniques in each general acute care hospital. The employer shall provide training to health care workers ~~on all of that includes,~~ *but is not limited to*, the following:

- (1) The appropriate use of lifting devices and equipment.
- (2) The five areas of body exposure: vertical, lateral, bariatric, repositioning, and ambulation.
- (3) The use of lifting devices to handle patients safely.

(b) As the coordinator of care, the registered nurse shall be responsible for the observation and direction of patient lifts and mobilization, and shall participate as needed in patient handling in accord with the nurse's job description.

(c) For purposes of this section, "lift team" means hospital employees specifically trained to handle patient lifts, repositionings, and transfers using patient transfer, repositioning, or lifting devices as appropriate for the specific patient. *Lift team members may perform other duties as assigned during their shift.*

(d) For the purposes of this section, "safe patient handling policy" means a policy that requires replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, ~~or~~ and lift teams, *as appropriate for the specific patient and* consistent with the employer's safety policies and the professional judgment and clinical assessment of the registered nurse.

(e) As part of the injury and illness prevention programs required by Section 3203 of Title 8 of the California Code of Regulations, or any successor law or regulation, employers shall adopt a patient

1 protection and health care worker back and musculoskeletal injury  
2 prevention plan. The plan shall include a safe patient handling  
3 policy component reflected in professional occupational safety  
4 guidelines for the protection of patients and health care workers  
5 in health care facilities.

6 ~~(f) Included in the injury and illness prevention programs, each~~  
7 ~~general acute care hospital shall do all of the following:~~

8 ~~(1) By January 1, 2013, develop a written safe patient handling~~  
9 ~~policy.~~

10 ~~(2) By January 1, 2013, purchase enough safe patient handling~~  
11 ~~equipment to eliminate the need to conduct manual patient handling~~  
12 ~~and transfers.~~

13 ~~(3) If a manual lift has to be used, document when and why it~~  
14 ~~had to be used.~~

15 ~~(g) Lift team members may perform other duties as assigned~~  
16 ~~during their shift.~~

17 ~~(h)~~

18 ~~(f) A health care worker who refuses to lift, reposition, or~~  
19 ~~transfer a patient due to concerns about patient-and or worker~~  
20 ~~safety and the lack of trained lift team personnel or equipment~~  
21 ~~shall not, based upon the refusal, be the subject of disciplinary~~  
22 ~~action by the hospital or any of its managers or employees.~~